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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,704	03/30/2004	Sergio Bortolloni	03AB205	4083

7590 01/06/2005
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EXAMINER

FISHMAN, MARINA

ART UNIT	PAPER NUMBER
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2832

DATE MAILED: 01/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/812,704

Applicant(s)

BORTOLLONI ET AL.

Examiner

Marina Fishman

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13/30/2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>10/25/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

General status

1. This is a First Action on the Merits. Claims 1 - 14 are pending in the case and are being examined.

Claim Objections

2. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Claim 10, is missing and therefore, claims 11-14, have been re-numbered as claims 10 -13. Applicant is required to refer to claims by **their new numbers only**. The dependency of the claims has also been adjusted.

Specification

3. The disclosure is objected to because of the following informalities: Page 7, last line, "hub 44" should be changed to --hub 45--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, line 5, recites "a switch actuating mechanism" and line 7, recites "a switching interface". It is not clear if both are the same, as according to the instant specification, actuating mechanism as well as "switching interface", both are identified with numeral 80 (the specification page 5, line 2; page 8, line 16). In addition, the "switching interface" is coupled to the "switch actuating mechanism" and therefore, both the elements must be different.

Claim 5, recites "switch actuating mechanism" and "switching interface" and therefore, has the same deficiency. Claim 11 (which depends from claim 9) would also create same deficiency, as claim 9, recites "switch actuating mechanism" and Claim 11 recites "switching interface".

Claim 1, recites "selected from" on line 9, it is not clear if selection should be made one out of the two switching assemblies recited in the claim or both switching assemblies should be selected. According to the instant specification only one switching assembly should be selected, therefore the Examiner interprets that only one switching assembly is required. Claims 2-13 have the same deficiency.

Claim 1, line 20, "the door handle" lacks proper antecedent basis.

Claim 5, line 17, "the front door" lacks proper antecedent basis.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1 – 8, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Grunert et al. [US 5,288,958].

Grunert et al. disclose a disconnect switch for installation in an electrical enclosure having a door [Column 3, lines 2 – 6] the switch comprising:

- at least three switch poles [column 3, lines 53,54], each switch pole having at least one pair of switch contacts [contacts in assembly 20, not shown];
- a switch actuating mechanism [26, 82];
- a switching interface [100] coupled to the switch actuating mechanism; a switching assembly [104, 136, 146] that is installable on the switching interface, the switching assembly having a handle [220] with a pivot [axis of shaft 122] for rotation in opposite directions from the pivot, for actuating and de-actuating the disconnect switch contacts. The handle being axially pressed [Figure 7] inward, prior to rotation to effect actuation of the switch contacts;
- assembly [100] acts as a motion translator, and translates the motion of shaft [70] associated with assembly [26, 82] to a shaft [122] to the

front of the cabinet [132, only part is shown]. Also for claim 5, the disclosed rotary switch is positioned on a side of the enclosure (the rotary switch does not have to be operable from the side) and the handle is positioned on the front of the enclosure or cabinet.

Grunert et al. disclose all the elements of claimed invention, however disclosed handle [220] being extending only in one direction from the pivot. It would have been obvious matter of design choice to provide handle extending in both directions from the pivot, in order to achieve better mechanical leverage during rotation of the handle.

7. Claims 9 -13, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Grunert et al. [US 5,288,958] in view of Pieroneck et al. [US 5,452,201].

Regarding Claim 9, Grunert et al. disclose the instant claimed invention except for a fourth switch module. Pieroneck et al disclose a disconnect module along with a control module [12], the control module being connected to the network. Therefore, it would have been obvious to provide a fourth module connected to the disconnect module in Grunert et al., as suggested by Pieroneck et al., so that the connected system (such as conveyor) can be controlled.

Claims 1 - 13 recite, "selected from" and the Examiner has satisfied the limitations of one of the switching assembly recited in each of the claims.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Horton [US 1,376,813], Sachs [US 1,986,221], Darimont [US

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5,463,196], Kries [US 1,404,865], Jessen [US 1,417,920] and Krcek [US 2,053,997], Whitaker [US 5,493,084], Reiter [US 5,609,244] all disclose switching assemblies.

Applicant also should consider these references in response to this office action.

Should issue arise concerning the rejection presented above, these references may be relied upon in a subsequent action to support the lack of novelty or obviousness of claimed subject matter to one of ordinary skill in the art.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marina Fishman whose telephone number is 571-272-1991. The examiner can normally be reached on 7-5 M-T.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Elvin Enad can be reached on 571-272-1990. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Marina Fishman
December 27, 2004


LINCOLN DONOVAN
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